THE ENVIRONMENTAL ROLE AT VARIOUS STAGES OF THE CIVIL WORKS PROCESS

Highlights of your role as “the tree hugger”.

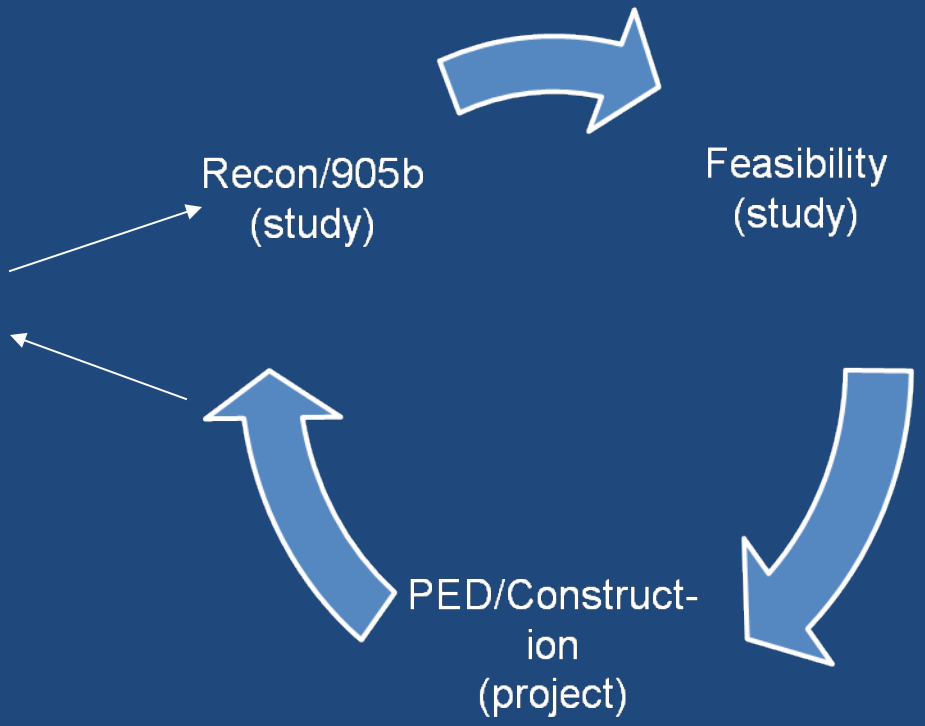
Ch 8 Mod 2
Handout #s 9, 22 & 23

OBJECTIVE

- REVIEW MATERIAL PRESENTED
  - Review Environmental Role in the Planning and NEPA Process .
  - Review the Civil Works Administrative Process
  - Provide insight to schedule and budgeting for process

ENV Role

- ENV is “Cradle to Grave”



Types of Civil Works Reports

- **Reconnaissance Study**
- **Feasibility Scoping Meeting (FSM) package**
- **Alternative Formulation Briefing (AFB) package**
- **Draft Feasibility Report/EIS**
- **Final Feasibility Report/EIS**
- Pre Con, Eng Phase (PED)
- **Post-Authorizati**on Design **on Change Reports**
  - **General Re-evaluation Reports**
  - **Limited Re-evaluation reports**
- **Other Reports/Issue Papers/Mitigation Plans/O&M Documents**
- CAP projects, proceed in two phases, and have same issues

Environmental Components

- NEPA: EA/EIS/FONSI/ROD
- Environmental Sections of Reports
- CWA: Section 404b/401 Analyses
- CAA: Emission Analyses/SOC
- CZMA: Consistency Determination
- FWCA: D&FWCAR/PAL/PAR (prepared by FWS but significant coordination required especially for field activities)
- ESA: BA (COE)/BO(FWS)Similar coordination
- MSFCMA: EFH Assessment
- SHPO-MOU
- Others

"Generalized" Civil Works Process*

	Reconnaissance Phase - 100% Federal	Feasibility Phase – 50% Federal, 50% non-Federal (can be all in-kind)	PED Phase – 75%Federal, 25% non-Federal	Construction Phase – 65% Federal, 35% non-Federal
Review	**DQC**	**ATR /IEPR**	**ATR**	**DQC**
Products	905(b) report; PMP & Feas Cost Sharing Agreement (FSCA) & RP	Feasibility Report and NEPA; prelim design scope and cost of recommended plan	Final Design; Scope/cost for construction	Complete construction **O&M Document***
Congress / President	Study authorization and appropriations	Appropriations (usually multi-year)	Appropriations (usually multi-year)	Construction authorization (WRDA) and appropriations (usually multi-yr)
Sponsor(s)	Letter of Intent; negotiate and sign FCSA	Team member; Allocate/approve funding In local budgets	Negotiate and sign Design Agreement (PED) Team Member; allocate funding	Negotiate and sign Project Partnership Agreement (PPA), allocate funding; O&M turnover to sponsor
Est Time & $	$100K+	$ variable	$ variable	$ variable

*O&M Responsibilities are based on project

WHAT TO DO & WHEN TO DO IT

Recon Reports

- No NEPA Requirement.
- Federal Actions are proposals at this stage.
- Initiate agency consultations.
- Review Available Information.
- Applies in general to CAP, but the stage is referred to as the Feasibility- no longer use Recon terminology.
- Determines Federal Interest!!!!

Feasibility Report

- A report describing potential solutions to water resources problems.
- Decision Document for OMB
- Au[illegible] Con[illegible]

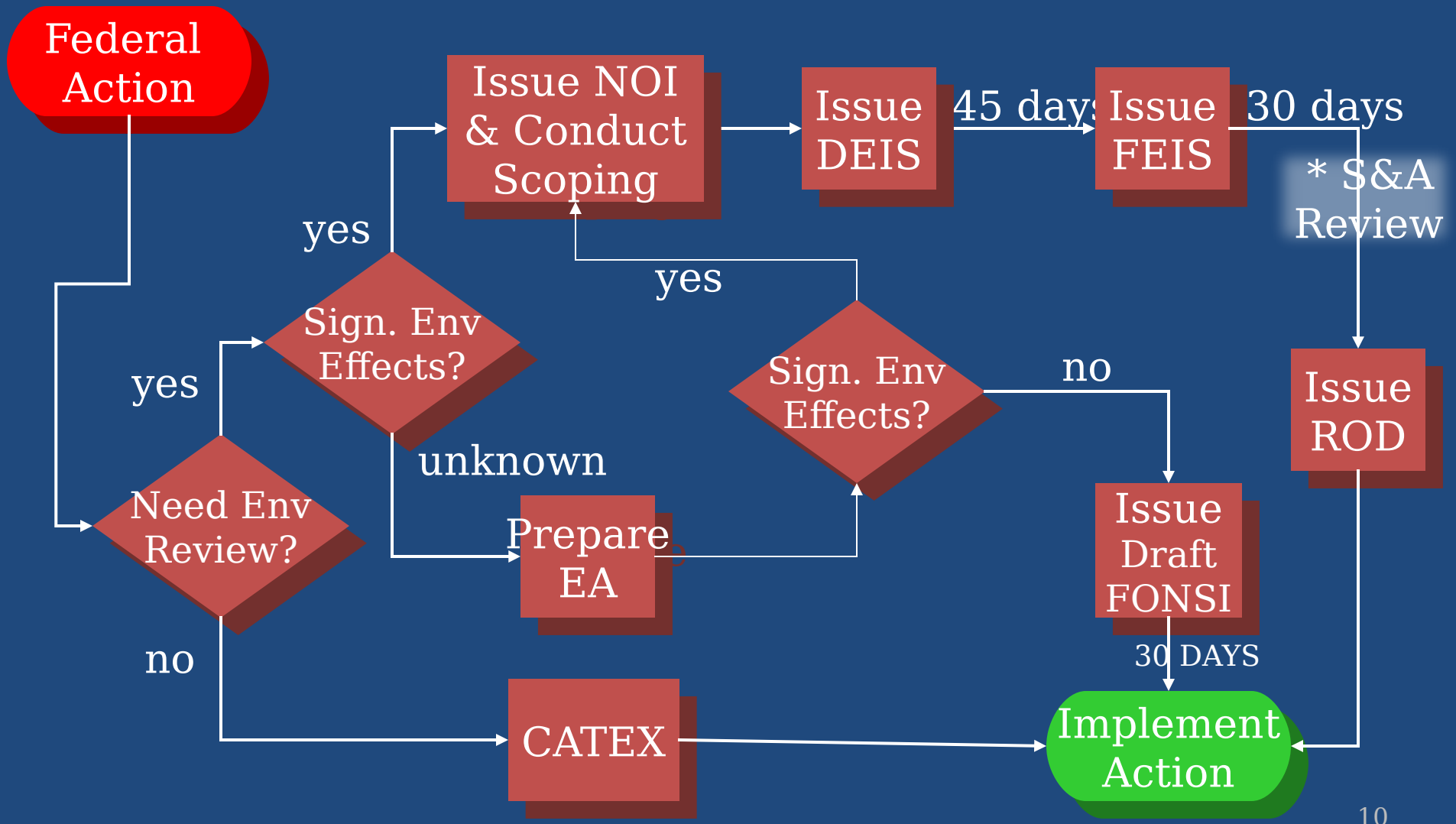
DFeasibility Report Process's Key Reviews & Decision Meetings

- **FSM – Feasibility Scoping Meeting**
- **AFB – Alternative Formulation Briefing**
- **IRC – Issue Resolution Conference**
- **IPR – In Progress Reviews**
- **FRC – Feasibility Review Conference**
- **CWRB-HQ Meeting- Cast of Thousands**

TO MAKE THEM WORTHWHILE, SUBMIT THE RIGHT INFORMATION AND LEAD DECISION MAKERS THROUGH THE PROBLEM

TO BENEFIT PERSONALLY MAKE AN EFFORT TO ATTEND THESE MEETINGS. They can be a real learning experience!!!!!

NEPA/COE Process Flow Chart



FR Processing at HQUSACE

HQUSACE .

- Washington Level Review.
  - CWRB CECW-I approves release of district report for State and Agency (S&A) 30 day concurrent Review.
  - HQUSACE provides directions to District for S&A review and the filing of the FEIS with EPA for 30 day pubic review.
- Submits report to Assistant Secretary for Civil Works.

Processing at the ASA's Level

- Assistant Secretary for Civil Works.
  - ASA(CW) circulates report to OMB for review for consistency with President's Program.
  - Signs ROD for GI Studies.
  - Transmits Chief's Rpt. to Congress following release by OMB.
  - Participates on vertical team for complex projects.
  - Project Advocate !
- Done at this point, wait for WRDA

Post Authorization Activities

Post Authorization Reports.

- Reports prepared following project authorization that address changes or reaffirmation of project justification.
  - General Reauthorization Report (GRR)
    - Major change
    - Review the NEPA documentation and permits.
  - Limited Revaluation Report (LRR)
    - No changes, economic update only

Planning Engineering and Design Phase (PED)

- Finalization of design after authorization.
  - Ensure ENV Statutory Compliance in preparation for Construction Phase (per PPA/PCA Checklist) i.e.. ROD/FONSI/SOC Commitments
- May result in project changes
- Review NEPA documentation and permits.
- This is design Phase in CAP (D&I)

  CAP is all post authorization activity

Examples of ENV Role During PED

- Supplemental Sampling/Monitoring per NEPA commitments/obligations:
- CWA: aquatic, wetlands, wq, sediments sampling
- CZMA: consistency determination
- EFH: supplemental fishery data
- ESA: supplemental wildlife data
- SHPO: supplemental MOA data
- Acquisition of State Permits/Certificates
- CAA: potential SIP issues

Construction Phase

- ENV ensures compliance with Federal and state issued ENFORCEMENT documents:
  - Certifications (404/401)
  - Permits (404/4011)
  - States CD (CZMA)
  - NOAA-F CR (EFH)
  - USFWS/NOAA-F BO (ESA)
  - CAA/SOC

Review Processes Supporting the Civil Works Process

- District Quality Review (DQR)
- Quality Assurance Review (QA)
- Agency Technical Review (ATR)
- Independent External Peer Review(IEPR)
- Policy Compliance Review (PCR)
- Legal Compliance Review (LCR)

Question: What is missing here?

District Quality Control

- In-house activity
- Occurs through out the process
- Focus is on: PMP

Agency Technical Review (ATR)

- Formerly known as Independent Technical Review (ITR) also was historic role of MSC
- Performed by a team of experts from outside the district (or other Agency)
- Team Lead from outside the MSC
- A critical examination of technical aspects of decision document at the District level
- Confirmation work was done in accordance with:
  - Professional Principles
  - Practices and Codes
  - Laws and Regulations
  - Policy

ATR Guidance

- **EC 1165-2-209** Water Resources Policies and Authorities CIVIL WORKS REVIEW POLICY
- **ER 1110-1-12 Quality Management** (30 September 2006)
- **Technical Review Guides** (being developed by PCXs)
- **Planning Guidance Notebook (ER 1105-2-100) Appendixes G & H**
- PCX Sharepoint: Review Guides, Art of Review, etc.

Independent External Peer Review (IEPR)

- Review of technical adequacy of large GI Projects
- Focus on environmental, engineering and economic evaluations and assumptions.
- Expense NTE $500K
- Conducted by outside eligible organization (OEO)
- IEPR discussed at CWRB
- Results posted on District WEB Site

IEPR References

- OMB Information Quality Bulletin for Peer Review
- WRDA 2007 Section 2034
- Engineer Circular 1165-2-20 9 31 Jan 2010

PCX: A New Player in the Process

- Planning Center of Expertise
  - Reviews and approves Review Plans (RPs)
  - Oversees/manages **ATR and IEPR**
  - Reviews, Certifies, Approves Planning Models
    - Includes HQUSACE Review Panel role
    - Engineering Models approved within Engineering Process
  - Training and Development
  - Policy/Guidance Development and Interpretation

How do I engage the ECO-PCX?

- First and foremost, through **joint development of a Review Plan (RP)**
  - Keep RP up to date
- **Maintain communication with the PCX(s)**
  - Lead PCX will coordinate with other PCXs and the Cost Engineering Directory of Expertise (NWW) as appropriate
  - Visit PCX web/share point sites for latest information Ecosystem Restoration Gateway http://cw-environment.usace.army.mil/restoation.cfm
  - ECO-PCX: http://el.erdc.usace.army.mil/ecocx

Document Processing

Who does what?

- District:
  - Preparation,
  - Technical certification/DQR
  - Document management.
- PCX
  - Model Cert
  - ATR/IEPR Oversight
- MSC:
  - Quality Control Review
  - Approval of CAP Reports
  - Chair FSM/AFB/IPR etc

Document Processing

Who does what ?(cont).

- HQUSACE:
  - Policy Compliance of GI Reports.
  - Approval of GI Reports.
  - Chairs CWRB Review
- ASA(CW).
  - Final approval and transmittal to Congress.
  - Advocate for Civil Works Projects
- OMB.
  - Consistency with President's Program.

NEPA Points of Attention

- Consistency between NEPA document and Feasibility Report is crucial. Inconsistency led to EC 1105-2-405 "Summary Report".
- Integration with Feasibility Report may be answer.
- Time:
  - Allow adequate time for NEPA tasks
  - EAs 120 days, EISs 3- 6 months Note that NEPA subsumes environmental work required by other environmental legislation.
  - Build in time for QC, ATR, back check, etc
  - Recognize seasonal nature of field work

NEPA Points of Attention

- Notices in Federal Register
  - NOA for EAs are not included in circulated reports
  - NOI to prepare EIS
  - NOA for circulating DEIS-45 days (EPA)
  - NOA for circulating FEIS-30 days (EPA)
- Chapter Discipline
- Presentations of Alternatives in Comparative Form
- Purpose and Need Presentation
- Scoping Meetings
- ROD- two page limit-it's a decision description not a summary report.

Environmental Input to Budget

- Ranking Criteria Points
  - Habitat Scarcity 25
  - Connectivity 25
  - Special Status Species 10
  - Hydrologic Character 20
  - Geomorphic Condition 20
  - Self-Sustaining 20
  - Plan Recognition 10
  - Budget Eco Inc 194

District	DIST RANK	MSC RANK	HQ RANK	ARMY RANK	Score
NAO	2	1	?	?	100
NAN	1	2	?	?	100
NAO	1	3	?	?	88
NAN	2	4	?	?	90
NAE	3	5	?	?	108
NAP	1	6	?	?	88

Budget Sheet CIRCA 2008

PBS Performance Measure Report - ENR (Budgeted) P2 Submittal 5 July Page 1

DISTRICT	FUNDING	DIST RAN	MSC	PH ASE	PHASE	P2 PROJECT NAME	BUD REQ - FED	PROJECT DESCRIPTION	NARRATIVE	HABITAT	HABI	CONNECT	CO	SPECIAL	SPECI	HYDROL	HYDR	GEOMOR	GEOMORPHI	PLAN	PLAN RECO	SELF	TOTAL	NATION
NAO	1	2.	1.	F	LY	DEEP CREEK WATERSHED	62,000.	Connects Dismal Swamp	Connects Dismal	25.	Wetla	25.	Proje	10.	Bald	15.	Restora	15.	Fully restore	10.	Chesapeake	0.	100.	Y
NAN	1	1.	2.	F	CN	HUDSON-RARITAN ESTUARY NY&NJ	200,000.	Target ecosystem	HRE has been	25.	Na'l	25.	Conn	10.	Suppo	15.	reintrod	15.	reconturing	10.	selected by	0.	100.	Y
NAO	1	1.	3.	F	CN	LYNNHAVEN RIVER BASIN, VA	175,000.	Remnant wetlands/riparia	NA(a-d) f.100% of	18.	Hargi	25.	Daue	10.	Sea	15.	Restora	10.	Establishes	10.	Project support	0.	88.	N
NAN	1	2.	4.	F	CN	HRE: HACKENSACK	200,000.	With an estimated study	Watershed-based	25.	The	25.	Conn	10.	(USFW	10.	reintrod	10.	reconturing	10.	As part of the	0.	90.	Y
NAO	1	3.	5.	P	LY	PH I-ELIZABETH RIVER SED. REM.	97,000.	Wetlands are scarce on a	NA(a-d) f.50%	18.	Priest	25.	Sea	10.	Sea	10.	. Bott	15.	Restores	10.	Project support	20.	108.	N
NAE	1	1.	6.	F	LY	PILGRIM LAKE, TRURO, MA	120,000.	Pilgrim Lake encompasses	Project will	18.	Scient	25.	Site	5.	Project	15.	The proj	15.	The project	10.	Project support	0.	88.	N
NAN	1	3.	7.	F	CN	HRE: LOWER PASSAIC RIVER, NJ	200,000.	This project would be a	Project is a	25.	Natl	18.	Conn	5.	spawni	10.	Project	10.	Significant	10.	URRI Pilot		78.	N
NAE	1	2.	8.	F	CN	MERRIMACK RIVER BASIN, MA-NH	200,000.	The interstate Merrimack River	a.NA b. NA c. NA	18.	Signifi	10.	Plan	10.	Main	10.	Project	0.	No geomor	5.	Supports:	0.	53.	N
							1,254,000.																	
NAN	2	6.	12.	F	LY	HRE: HACKENSACK	300,000.	With an estimated study	Watershed-based	25.	The	25.	Conn	10.	(USFW	10.	reintrod	10.	reconturing	10.	As part of the	0.	90.	N
NAE	2	3.	13.	F	LY	BLACKSTONE RIVER INVESTIGATION	300,000.	Feasibility study to identify	a.NA b. NA c. NA	25.	Resto	25.	Mee	5.	Restor	10.	Restora	10.	Restoration of	10.	Restoration	0.	85.	N
NAB	2	14.	14.	R	LY	MIDDLE POTOMAC STUDY	50,000.	Habitat Types: RU, RE, RF.	a)NA, B)NA,	18.	scarc	25.	Ther	5.	fed list	10.	restore	10.	restored to	10.	Chesapeake		78.	N
NAB	2	19.	15.	R	LY	SUSQUEHANNA LOW FLOW	100,000.	Habitat Types: RW, RU, OT.	a) NA, b) NA, c)	18.	2500	18.	Form	5.	Anadr	10.	restore	10.	restored to	10.	Chesapeake		71.	N
NAB	2	6.	16.	F	LY	FOUR MILE RUN WATERSHED	699,000.	Habitat Types: PF, RU, EE.	a) NA, b) NA, c)	10.	Healt	18.	Fish	5.	Anadr	15.	restore	10.	restored to	10.	Chesapeake		68.	N
NAB	2	5.	17.	F	LY	LOWER POTOMAC--ST. MARY'S	50,000.	Habitat Types: RW, EA, ER.	a) NA, b) NA, c)	18.	Oyste	18.	Will	10.	Bald	5.	the proj	5.	oyster restorat	10.	Projects		66.	N
NAP	2	2.	18.	F	LY	CHRISTINA RIVER WATERSHED	797,000.	Study will identify	e. Red Clay	18.	DNRE	18.	Resto	3.	Anadr	10.	Project	10.	Removal and	5.	Project contrib		64.	N
NAB	2	17.	19.	R	LY	SUSQUEHANNA & DELAWARE BASIN	50,000.	Habitat Types: RE, RA, RF,	a) NA, b) NA, c)	18.	Regio	10.	Form	10.	Federal	5.	if nec	10.	restored to	10.	Chesapeake		63.	N

HO #22 ENVIRONMENTAL COMPLIANCE REQUIREMENTS for GI projects at VARIOUS STAGES OF THE CIVIL WORKS PLANNING PROCESS

LAWS*: NEPA FWCA ESA CWA NHPA CZM CAA FPPA MPSRA MSFCMA

RECON

a. Item: ----------Review Available Information------SMP------SIP -------Avail Info---EFHs/FMPs-

Agency: EPA------FWS------FWS---DNR----SHPO----DNR---—DNR---------NRCS------EPA-------NMFS---
NMFS NMFS EPA EPA

b. Recon Fact sheets should contain summaries of existing information & the results of informal agency coordination necessary to develop a preliminary assessment of project conditions and potential issues.

c. The recon effort is focused on the PMP, FCSA, Letter of Intent, and PR Report upon which the feasibility study is to be based. For CAP recons under $100K see MSC regulations.

2. Draft Feasibility Report

a. Item: DEA/EIS DCAR BA D404 DMOA D307 176(c)(1) AD1006 DSec103 DEFH
DFONSI BO (b)(1) Sec 106 Determ. NAAQS Review Eval Eval

b. **EA with Un-circulated draft FONSI**. Includes documentation of compliance as appropriate. IPR held early in feasibility stage with HQUSACE, MSC, District & Sponsor to refine the PMP for the feasibility study. EAs are not coordinated with EPA. ***Note all approval and review functions for CAP projects and for LRRs less than $15M has been delegated to the MSCs.***

c. **DEIS Un-circulated**. District Engineer files a Notice of Intent with EPA for publishing in the Federal Register and to initiate the Scoping process. IPR may be held to refine PMP. Documents must include preliminary COE response to regulatory agency recommendations. Applicable for CAP EIS (Rare).

d. **HQUSACE/MSC RIT Policy Review**: AFB/PGM certifies document for sequential or concurrent public/HQUSACE (45-60 days) review and comment. Projects with EAs are circulated for 30 days.

e. District revises document and submits to MSC for processing as a final document.

3. Final Feasibility Report

a. Item: EA/EIS FCAR BO F404 MOA ---Final Consistency---COE FSec 103 FEFH
FONSI COE COE (b)(1) ACHP Determinations Resp Eval COE Response
Resp Resp 401 Cert. Sec 106

b. Document must include regulatory compliance documentation with Corps' response for required or recommended actions; i.e. mitigation/conservation recommendations, prudent alternatives etc.

c. **Washington Level Review** (OWPR/IRC) conducted in preparation for Final Assessment/CWRB review. Review certifies Chief's Report for concurrent Public and State & Agency 30 day review. IEPR input at this juncture if required. District issues Notice of Availability, files FEIS with EPA, transmits draft responses to comments to RIT. Prepares draft ROD. MSC/RIT prepares responses to significant FEIS/S&A comments & finalizes ROD. RIT transmits finalized report to DCW & Chief of Engineers. There is no Washington level or S&A review for CAP projects, see MSC regulations.

d. HQUSACE furnishes signed Chief's Report, review letters and Draft ROD to ASA(CW).

e. **ASA(CW) Review**. ASA(CW) reviews and circulates to OMB (RIT orchestrates any changes based on ASA/OMB reviews). ASA signs ROD & transmits Rpt. to Congress.

4. PED Studies: No Scoping or Washington Level/S&A review for NEPA Documents.

a). LRR: Minor changes, economic update only, report to HQUSACE (NEPA documentation stands).

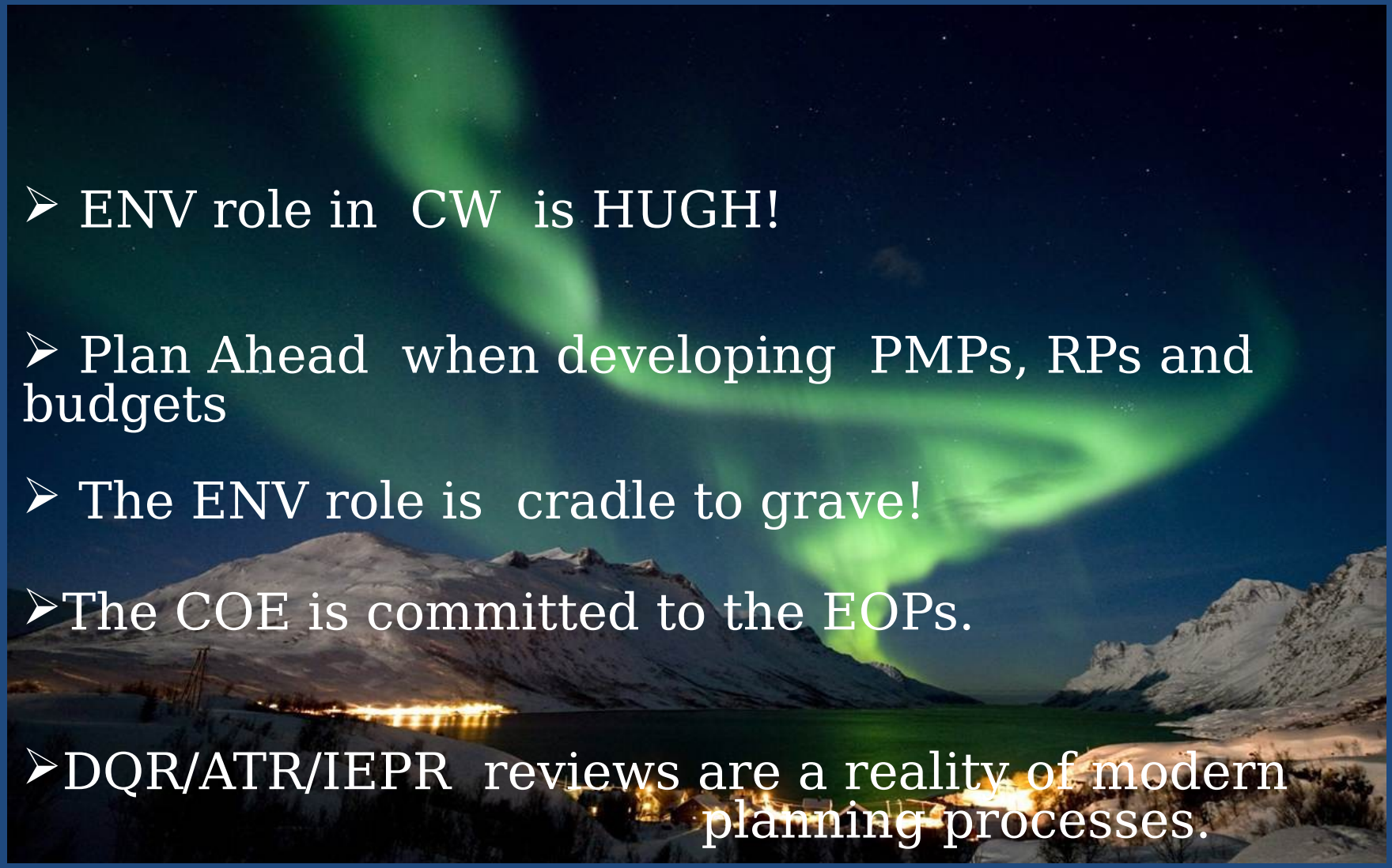
b). GRR: Project reformulation may require a NEPA supplement due to environmental change or time span since original report. Review of NEPA documentation required.

*Other laws may apply.. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) does not normally apply to Civil Works Planning.

OTHER items

- HO # 23 Lee Ware's Lessons Learned is a review of problem areas in civil works reports. Good source of information.
- HO #9 PPA ENVIRONMENTAL CHECKLIST is a list of items needed in a complete report ; Good quick check!
- **6/9/2005 NEPA Quality Assurance Check List in Reference File is a good QA checklist for an EIS!**

The End



- ENV role in CW is HUGH!
- Plan Ahead when developing PMPs, RPs and budgets
- The ENV role is cradle to grave!
- The COE is committed to the EOPs.
- DQR/ATR/IEPR reviews are a reality of modern planning processes.